

ORIGINAL

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

DOCUMENT # 35

CON EDISON CO. OF NY

DATE July 26, 2004

v.

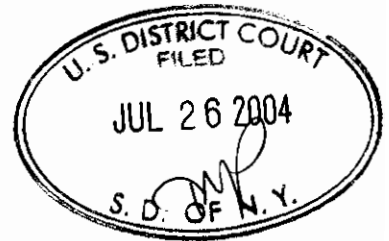
U.S.D.C.# 01-cv-8520

UGI UTILITIES, INC.

U.S.C.A.# 04-2409-cv

D.C. JUDGE: DENNY CHIN

Notice To The Docket Clerk



☒ (XXX) Original Record

☐ () Supplemental Record

The record in the above-entitled case was indexed to the U.S.C.A. for the Second Circuit on the 26TH day of July 2004.

COPY

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

Date July 26, 2004

CON EDISON CO. OF NY

U.S.C.A.# 04-2409-cv

v.

U.S.D.C.# 01-CV-8520

UGI UTILITIES, INC.

D.C. JUDGE: DENNY CHIN

INDEX TO THE RECORD ON APPEAL

Prepared by (Name)	Kevin Brown
Firms name:	Counsel Press
Firms address:	520 Eighth Avenue, 8 th Floor
	New York, New York 10018
Firms Phone Number:	212-685-9800

CLERK'S CERTIFICATE

SEE ATTACHED LIST, ALL CIRCLED DOCUMENTS ARE INCLUDED

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:01-cv-08520-DC**

Con Edison Co. of NY v. UGI Utilities, Inc.

Assigned to: Judge Denny Chin

Referred to:

Demand: \$0

Lead Docket: None

Related Cases: None

Case in other court: None

Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 09/20/01

Jury Demand: Defendant

Nature of Suit: 893 Environmental Matters

Jurisdiction: Federal Question

Filing Date	#	Docket Text
09/20/2001	(1)	COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). . (jol) (Entered: 09/27/2001)
09/20/2001		Magistrate Judge Debra C. Freeman is so designated. (jol) (Entered: 09/27/2001)
10/22/2001	(2)	AFFIDAVIT OF SERVICE of summons and complaint as to UGI Utilities, Inc. by Margret Berger on 10/5/01 . Answer due on 10/25/01 for UGI Utilities, Inc. . (bai) (Entered: 10/23/2001)
12/04/2001	(3)	STIPULATION and ORDER, reset answer to complaint due for 12/10/01 for UGI Utilities, Inc. ; (signed by Judge Denny Chin) (dj) (Entered: 12/05/2001)
12/20/2001	(4)	STIPULATION and ORDER, reset answer to complaint due for 12/24/01 for UGI Utilities, Inc. . (signed by Judge Denny Chin) (ae) (Entered: 12/26/2001)
01/04/2002	(5)	STIPULATION and ORDER, reset answer due for 1/11/02 for UGI Utilities, Inc. (signed by Judge Denny Chin) (kw) (Entered: 01/07/2002)
01/29/2002	(6)	NOTICE OF MOTION by UGI Utilities, Inc. for an order admitting Jay Varon, Esq., James Caragher, Esq., and Gary Rovner, Esq. appear pro hac vice . Return date not indicated. Affidavit of Anthony J. Ferrara in support attached. (bai) (Entered: 01/30/2002)
02/04/2002		Memo endorsed on motion; granting [6-1] motion for an order admitting Jay Varon, Esq., James Caragher, Esq., and Gary Rovner, Esq. to appear pro hac vice. (signed by Judge Denny Chin); Copies mailed. (Sent to the Attorney Admissions Clerk). (kw) (Entered: 02/05/2002)
03/04/2002	(7)	RULE 1.9 CERTIFICATE filed by Con Edison Co. of New York. (jco) (Entered: 03/05/2002)
03/04/2002	(8)	FIRST AMENDED COMPLAINT by Con Edison Co. of NY (Answer due 3/18/02 for UGI Utilities, Inc.) amending [1-1] complaint. (jco) Modified on 03/05/2002 (Entered: 03/05/2002)
03/08/2002	(9)	ORDER; that the parties shall proceed with discovery; the parties shall appear for a pretrial conference by 12:00 p.m. on 4/19/02, in courtroom 11A1; a discovery cut-off will be set at that time . (signed by Judge Denny Chin); Copies mailed. (pl) (Entered: 03/11/2002)
03/21/2002	10	RULE 1.9 CERTIFICATE filed by UGI Utilities, Inc. . (bai) (Entered: 03/26/2002)
03/21/2002	(11)	ANSWER to Complaint by UGI Utilities, Inc. (Attorney Jay N. Varon from the Firm: Foley &

		Larnder); jury demand. (bai) (Entered: 03/26/2002)
08/19/2002	(12)	PROTECTIVE ORDER; regarding the procedures that will govern the handling of confidential material . (signed by Judge Denny Chin); Copies mailed. (pl) (Entered: 08/20/2002)
09/30/2002	(13)	AMENDED JOINT DISCOVERY PLAN, the deadline for the submission of plntf's expert shall be 11/21/02; the deadline for the completion of deposition(s) of plntf's expert(s) shall be 1/9/03; the deadline for the submisison of deft's expert reports shall be 2/13/03; the deadline for the completion of the deposition(s) of deft's expert(s) and the completion of all discovery shall be 3/20/03 (signed by Judge Denny Chin); (cd) (Entered: 10/01/2002)
09/30/2002		Deadline(s) updated: reset all discovery due for 3/20/03 . (cd) (Entered: 10/01/2002)
02/06/2003	(14)	NOTICE OF MOTION by Con Edison Co. of NY; for an Order pursuant to local rule 1.3(c) admitting Keisha A. Gary to appear pro hac vice . Return Date not indicated. (jco) (Entered: 02/13/2003)
02/20/2003		Memo endorsed on motion; granting [14-1] motion for an Order pursuant to local rule 1.3(c) admitting Keisha A. Gary to appear pro hac vice. (signed by Judge Denny Chin); (Sent to the Attorney Admissions Clerk). (kw) (Entered: 02/21/2003)
07/02/2003	(15)	NOTICE OF MOTION by UGI Utilities, Inc. for an order, purs. to FRCP 56, granting summary judgment on behalf of UGI and dismissing pltff's complaint ; Return Date not indicated. (sac) (Entered: 07/07/2003)
07/02/2003	(16)	MEMORANDUM OF LAW by UGI Utilities, Inc. in support of [15-1] motion for an order, purs. to FRCP 56, granting summary judgment on behalf of UGI and dismissing pltff's complaint. (sac) (Entered: 07/07/2003)
07/02/2003	(17)	STATEMENT OF UNDISPUTED FACTS by UGI Utilities, Inc. (sac) (Entered: 07/07/2003)
07/24/2003	(18)	MEMORANDUM OF LAW by UGI Utilities, Inc. in support of [15-1] motion for an order, purs. to FRCP 56, granting summary judgment on behalf of UGI and dismissing pltff's complaint . (yv) (Entered: 07/28/2003)
08/12/2003	(19)	Memo-Endorsement on letter addressed to Judge Denny Chin from Andrew Cooper, dated 8/4/03. Re:, granting counsel for plaintiff's request for an extension of the deadline for its opposition to dft's motion for summary judgment to 8/29/03 , also granting an extension of the filing deadline for dft's reply to 10/3/03 . (signed by Judge Denny Chin); (dle) (Entered: 08/13/2003)
09/03/2003	(20)	MEMORANDUM OF LAW by Con Edison Co. of NY in opposition to [15-1] motion for an order, purs. to FRCP 56, granting summary judgment on behalf of UGI and dismissing pltff's complaint . (dle) (Entered: 09/12/2003)
09/03/2003	(21)	AFFIDAVIT of Michael A. Wilcken by Con Edison Co. of NY in support of [20-1] opposition memorandum . (dle) (Entered: 09/12/2003)
09/03/2003	(22)	COUNTER STATEMENT TO RULE 56.1 filed by Con Edison Co. of NY (dle) (Entered: 09/12/2003)
09/03/2003	(23)	AFFIDAVIT of Keisha A. Gary by Con Edison Co. of NY in opposition to [15-1] motion for an order, purs. to FRCP 56, granting summary judgment on behalf of UGI and dismissing pltff's complaint . (dle) (Entered: 09/12/2003)
09/03/2003	(24)	AFFIDAVIT of Keisha A. Gary (Volume II) by Con Edison Co. of NY in opposition to [15-1] motion for an order, purs. to FRCP 56, granting summary judgment on behalf of UGI and dismissing pltff's

		complaint . (dle) (Entered: 09/12/2003)
10/06/2003	(25)	REPLY MEMORANDUM by UGI Utilities, Inc. in support re: [15-1] motion for an order, purs. to FRCP 56, granting summary judgment on behalf of UGI and dismissing plttf's complaint . (dle) (Entered: 10/08/2003)
10/06/2003	(26)	COUNTER STATEMENT TO RULE 56.1 filed by UGI Utilities, Inc. (dle) (Entered: 10/08/2003)
10/21/2003	(27)	Memo-Endorsement on letter addressed to Judge Denny Chin from Andrew Cooper, dated 10/15/03. Re:, counsel for plaintiff requests permission to file a sur reply of ten pages or less by 10/24/03 to the motion for summary judgment. Request for sur-reply denied. The court will schedule oral argument & the issue can be addressed then . (signed by Judge Denny Chin); (dle) (Entered: 10/23/2003)
01/12/2004	(28)	TRANSCRIPT of proceedings held on 11/25/03 before Judge Denny Chin.(pr,) (Entered: 01/12/2004)
01/29/2004	(29)	STIPULATION AND ORDER ACCEPTING AMENDED TRANSCRIPT of the corrected transcript of the summary judgment argument before Judge Chin on 11/25/2003 at 11:00am.The errata is attached. (Signed by Judge Denny Chin on 1/28/2004) (jsa,) (Entered: 02/04/2004)
03/30/2004	(30)	MEMORANDUM AND OPINION # 89875; that defendants motion for summary judgment is granted in its entirety and the complaint is dismissed with prejudice and with costs. The Clerk of the Court shall enter judgment.. (Signed by Judge Denny Chin on 3/29/04) (pl,) (Entered: 03/31/2004)
03/30/2004		Transmission to Judgments and Orders Clerk. Transmitted re: [30] Memorandum & Opinion, to the Judgments and Orders Clerk for preparation of Judgment. (pl,) (Entered: 03/31/2004)
03/30/2004		MEMO ENDORSEMENT on re: [15] Motion for Summary Judgment filed by UGI Utilities, Inc. Motion granted, in part, for the reasons stated on the record on 11/25/03 and granted, in part, pursuant to opinion dated 3/29/04. (Signed by Judge Denny Chin on 3/29/04) (kw,) Modified on 4/1/2004 (kw,). (Entered: 04/01/2004)
03/31/2004	(31)	CLERK'S JUDGMENT granting defendant's motion and dismissing the complaint with prejudice and with costs. (Signed by J. Michael McMahon, clerk on 3/31/04) (ml,) (Entered: 04/01/2004)
04/07/2004		Mailed notice of Right to Appeal to Attorney(s) of Record: Andrew C. Cooper, David L. Elkind, Anthony J. Ferrara, Joseph F. Fields, Keisha A. Gary, Jay N. Varon. (snu) (Entered: 04/07/2004)
04/29/2004	(32)	NOTICE OF APPEAL from [30] Memorandum & Opinion,, [31] Clerk's Judgment. Document filed by Consolidated Edison Company of New York, Inc.. Filing fee \$ 255.00, receipt number E506993. Copies of Notice of Appeal mailed to Attorney(s) of Record: Foley & Lardner and Polstein, Ferrara, Dwyer & Speed. (dt,) (Entered: 05/03/2004)
05/03/2004		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [32] Notice of Appeal,. (dt,) (Entered: 05/03/2004)
05/03/2004		Transmission of Notice of Appeal to the District Judge re: [32] Notice of Appeal,. (dt,) (Entered: 05/03/2004)
06/16/2004	(33)	SURREPLY RESPONSE in Opposition re: [15] Motion for Summary Judgment. Document filed by Consolidated Edison Company of New York, Inc. (cd,) (Entered: 06/18/2004)
06/16/2004	(34)	AFFIDAVIT of Keisha Gary in Opposition re: [15] Motion for Summary Judgment. Document filed by Consolidated Edison Company of New York, Inc. (cd,) (Entered: 06/18/2004)

